



Environmental Guidance Regulatory Bulletin

Office of Environmental Policy and Assistance RCRA/CERCLA Division (EH-413) Revised September 1999

Used-Oil Management Standards

Background

In May 1992, EPA determined that used oil destined for disposal would not be listed as hazardous waste based on the technical criteria for such listing as stipulated by the Resource Conservation and Recovery Act (RCRA) and its regulations. In September 1992, the EPA announced that used oil that will be recycled will not be a listed hazardous waste. The September announcement also included management standards that apply to generators, transporters, processors, re-refiners, burners, and marketers of used oil. These standards were codified at 40 CFR 279. Minor clarifying amendments were made to the standards in 1993, 1994, and 1996.

Several amendments to 40 CFR 279 were issued on May 6, 1998 and were integrated into the CFR. The amendments referencing

- used oil contaminated with PCBs (40 CFR 279.10(i)),
- mixtures of conditionally exempt small quantity generator waste and used oil (261.5(j)), and
- recordkeeping requirements for marketers of used oil (40 CFR 279.74(b))

were met with adverse public comment. These amendments were subsequently removed from the CFR through a July 14, 1998 Federal Register notice and the regulatory text that existed prior to the May 1998 amendments was reinstated. However, the 1998 publication of 40 CFR 279 was printed before the July 14 notice and therefore inaccurately states certain management standards for used oil.

This Regulatory Bulletin summarizes the management standards for used oil pursuant to the clarifying amendments in the July 14, 1998 Federal Register notice.

Applicability, Exemptions, and Prohibitions of the Management Standards

Applicability of the Standards

Used oil is defined as “any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.” [40 CFR 279.1]

Used oil mixed with other types of substances as described in the following list are regulated under 40 CFR 279:

- used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed under RCRA unless:
 - the used oil is metalworking oil or fluid containing chlorinated paraffins processed through an approved tolling arrangement to reclaim metalworking oil or fluids, or
 - the used oil is contaminated with chlorofluorocarbons which are destined for reclamation and are from refrigeration units;
- mixtures of used oil and wastes that are hazardous because they (a) exhibit a hazardous waste characteristic or (b) are listed because they exhibit a hazardous waste characteristic are regulated as used oil if the resultant mixture does not exhibit any characteristics of hazardous waste;
- mixtures of used oil and a waste declared hazardous because it exhibits the characteristic of ignitability are regulated as used oil if the resultant mixture does not exhibit the characteristic of ignitability;

- mixtures of used oil and conditionally exempt small-quantity generator waste are regulated as used oil if the mixture is destined to be burned for energy recovery;
- mixtures of used oil and non-hazardous solid wastes are regulated as used oil;
- mixtures of used oil and other fuels or fuel products are regulated as used oil.

Exemptions from the Standards

The following are exempt from the management standards for used oil.

- Commercial products such as re-refined lubricants reclaimed from used oil.
- Mixtures of used oil and diesel fuel mixed on site by the generator for use in the generator's own vehicles.
- Waste-water discharges regulated under the Clean Water Act that are contaminated with de minimis quantities of used oil.
- Used oil mixed with crude oil or natural gas liquids for insertion into a crude oil pipeline.
- PCB-contaminated used oil regulated under 40 CFR 761.

Prohibitions in the Standards

The used-oil management standards prohibit the

- management of used oil in surface impoundments and waste piles unless the units are subject to the RCRA standards for the treatment, storage, and disposal of hazardous wastes at 40 CFR 264 and 265,
- use of used oil as a dust suppressant unless it takes place in a state authorized by EPA to allow this practice, and
- burning of off-specification used-fuel oil unless it is burned in
 - an industrial furnace or boiler (defined at 40 CFR 260.10),
 - utility boilers used to produce electric power, steam, or heated or cooled air for sale,
 - RCRA regulated hazardous waste incinerators,

- used oil-fired space heaters burning used oil generated on-site, with a maximum capacity of not more than 0.5 million Btu per hour and with - combustion gases from the heater vented to the outside air.

(Note: off-specification used-oil fuels are those that contain more than 5 ppm arsenic, 2 ppm cadmium, 10 ppm chromium, 100 ppm lead, or 4,000 ppm total halogens or those not having a flash point of at least 100° Fahrenheit.)

Used Oil Management Standards

Generators

A used-oil generator is “any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.” [40 CFR 279.1] The major requirements applicable to generators are summarized below.

- Used oil must be stored in units subject to the hazardous waste regulations under 40 CFR 264/265, or in tanks or containers.
- Above-ground tanks or containers storing used oil cannot be severely rusted or have apparent structural defects or deterioration or visible leaks. (Note: underground storage tanks containing used oil are regulated under the RCRA Underground Storage Tanks regulations.)
- Containers, above-ground tanks, and fill pipes used to transfer used oil into underground storage tanks at generator facilities must be clearly marked with the words “Used Oil.”
- Upon detection of a release of used oil to the environment, a generator must stop, contain, and clean up the release, and make any repairs necessary to used-oil tanks and containers to prevent future used-oil releases.

Used-oil generators are responsible for ensuring that their used oil is moved off-site only by transporters who have obtained an EPA identification number. However, a generator may transport up to 55 gallons of used oil to a used-oil collection center or on-site aggregation point in a generator-owned vehicle without obtaining an EPA identification number or being considered a

used-oil transporter. A generator can also arrange for the movement of used oil by a transporter without an EPA identification number if the used oil is destined for reclamation under a tolling agreement.

Collection Centers / Aggregation Points

Used-oil collection centers are any sites or facilities that accept/aggregate and store used oil collected from used oil generators who bring used oil in shipments of no more than 55 gallons. Used oil collection centers must comply with the requirements for used-oil generators and be either registered, permitted, licensed, or recognized by the appropriate state, county, or municipal government authority.

A used-oil aggregation point is any site or facility that accepts, aggregates, and/or stores used oil collected only from other used-oil generation sites owned or operated by the owner or operator of the aggregation point. Used oil can be shipped to the aggregation point in shipments of no more than 55 gallons. Owners and operators of used-oil aggregation points must comply with the requirements applicable to generators of used oil.

Transporters

Used-oil transporters are any persons who transport used oil, collect used oil from more than one generator and transport the collected oil, and own and operate used oil transfer facilities. Used-oil transporters must obtain EPA identification numbers and are responsible for determining that the used oil they are transporting or storing is not hazardous under the 1,000 ppm halogens definition. Used-oil transporters are also responsible for tracking used-oil shipments.

The requirements applicable to the storage of used oil and response to releases at transporters' transfer facilities are identical to those applicable to generators except that the used-oil storage containers and above-ground tanks at transfer facilities must be equipped with secondary containment systems.

Processors and Re-refiners

Used-oil processors and re-refiners are subject to the most extensive set of used-oil management requirements. Processing means "chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing

includes, but is not limited to: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation and re-refining." [40 CFR 279.50(a)]

Used-oil processors and re-refiners are responsible for

- determining if the used oil is not a hazardous waste,
- obtaining an EPA identification number,
- tracking shipments of used oil that are accepted and delivered,
- keeping an operating record,
- reporting biennially on the amount of used oil processed or re-refined and the processes used, and
- developing a written plan describing the procedures to sample used oil.

Processors and re-refiners must conform to the used-oil storage requirements for generators with the exception that their containers and above-ground tanks must be equipped with secondary containment systems. Processors and re-refiners must decontaminate above-ground tanks and containers at closure and perform the closure and post-closure care applicable to hazardous waste landfills in areas where soils contaminated by above-ground tanks cannot be decontaminated or removed.

Processors and re-refiners are also subject to an extensive set of general facility standards involving preparedness and prevention and contingency plans and emergency procedures. The preparedness and prevention provisions are identical to those established for hazardous waste management facilities at 40 CFR 265, Subpart C. These requirements pertain to maintenance and operation of the facility, required equipment, equipment testing and maintenance, access to a communication or alarm system, required aisle space, and arrangements with local authorities. The contingency plan and emergency procedures are identical to those established at 40 CFR 265 Subpart D for hazardous waste management facilities.

Burners

Burners of off-specification used-oil fuels (see earlier definition at page 2) must

- comply with the facility notification requirements of RCRA section 3010 and obtain an EPA identification number,
- ensure that the used oil is not hazardous waste by determining whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm,
- burn used-oil fuel only in approved industrial furnaces and boilers, and
- keep a record of each used-oil shipment accepted for burning.

Burners are subject to the same requirement as generators for the storage of used oil and response to releases with the exception that the containers and aboveground tanks holding burners' oil must be equipped with secondary containment systems.

Marketers

Used-oil fuel marketers are people who either direct a shipment of off-specification used oil from their facility to a used oil burner or first claim that used oil to be burned for energy recovery meets the used fuel specifications. Marketers must

- comply with the notification requirements of RCRA section 3010 and obtain an EPA identification number,
- only send off-specification used-oil fuel to industrial furnaces or boilers with EPA identification numbers, and
- keep records of all shipments of off-specification used-oil fuels.

Applicability of Regulations Under Other Environmental Programs to Used Oil

States have the option to develop their own regulations regarding the management of used oil. These state standards could be more stringent than Federal regulations.

In addition to Standards for the Management of Used Oil at 40 CFR 279, the following other Federal regulations also apply to used oil:

- Regulations promulgated at 40 CFR 761.20 under the Toxic Substances Control Act stipulate that the burning of used oil containing quantifiable levels of PCBs (2 ppm) is allowed only in approved energy recovery combustion facilities.
- Used-oil handlers must comply with all applicable requirements of the Spill Prevention Control and Countermeasures Program established under the Clean Water Act at 40 CFR 112.
- Used oil stored in underground storage tanks (USTs) is regulated under Subtitle I of RCRA; the UST regulations are located at 40 CFR 280.

Questions of policy or questions requiring policy decisions will not be dealt with in EH-413 Regulatory Bulletins unless that policy has already been established through appropriate documentation. Please refer any questions concerning the subject material covered in this Regulatory Bulletin to:

Sharon Brown.
Office of Environmental
Policy & Assistance,
RCRA/CERCLA Division,
EH-413
U.S. Department of Energy
1000 Independence Ave., S.W.
Washington, D.C. 20585



Phone: (202) 586-6377
E-mail: sharon.brown@eh.doe.gov